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VOL. I

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EXHIBITS 1-16

4

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

5

Nos. 03-12502-NMG

6

HARTFORD FIRE INSURANCE COMPANY )  
Plaintiff, )  
vs )  
EASTERN CONTRACTORS, INC., )  
Defendant/Third-Party )  
Plaintiff, )  
vs )  
CITY OF LAWRENCE, CITY OF FALL )  
RIVER and FREETOWN/LAKEVILLE )  
REGIONAL SCHOOL DISTRICT, )  
Third-Party Defendants.)

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DEPOSITION of WILLIAMS JARVIS,  
taken on behalf of the defendant, pursuant to  
the applicable provisions of the Federal Rules  
of Civil Procedure, before Katherine  
Henry-Sexton, a Notary Public in and for the  
Commonwealth of Massachusetts, at the offices of  
Quinlan and Sadowski, PC, Suite 250, 11  
Vanderbilt Avenue, Norwood, Massachusetts, on  
Wednesday, November 2, 2005, commencing at 10:05  
a.m.

EXHIBIT

B-3

## APPEARANCES :

Quinlan and Sadowski, P.C., (by  
Edward J. Quinlan, Esq.), Suite 250, 11  
Vanderbilt Avenue, Norwood, Massachusetts 02062,  
for the defendant.

Hinshaw and Culbertson, LLP, (by Bradford R. Carver, Esq.), Fort Hill Square, One International Place, Third Floor, Boston, Massachusetts 02110, for the plaintiff.

Hinckley, Allen and Snyder, LLP,  
(by Doreen Zankowski, Atty.), 28 State Street,  
Boston, Massachusetts 02109, for the City of  
Lawrence.

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1 might have been stated on the change orders. I  
2 think their recitation in my e-mail was to note  
3 that there was reliability as to quantity, as to  
4 the quantity stated in the change, not as to the  
5 amount or the pricing of the change.

6 Q. Now, on the second page you make  
7 reference to leaving a voice mail message with  
8 David Capaldo regarding the architect's reply in  
9 your last paragraph?

10 A. Yes.

11 Q. And he was the project architect for  
12 the Wetherbee project?

13 A. I presume so.

Q. Do you recall receiving his reply?

15 A. No, I don't.

16 (Discussion off the record.)

17 Q. These are documents from the Hartford  
18 files, sir. I'll show them to you and put a  
19 paperclip on them because they begin with the  
20 Hartford sequence No. 13677 and they go through  
21 13688. And that is a Fax memo from Mr. Capaldo  
22 to you, is it not?

23 A. It is.

Q. Did that send you a copy of his

1 correspondence back in November of 2001 to Mr.  
2 Votta denying any request for a change in the  
3 unit price?

4 A. Could you repeat your question please?

5 Q. Is that the letter that Mr. Capaldo  
6 sent you according to his Fax?

7 A. Apparently so.

8 Q. Now, that was a Fax transmission --

9 MR. CARVER: This will be one  
10 exhibit then.

11 MR. QUINLAN: Yes, one exhibit.

12 (Exhibit No. 15, Fax, 7/16/03, with  
13 attachment, marked.)

14 Q. Now, sir, I've shown you the letter or  
15 the Fax transmittal along with the attachment  
16 that consists of the documents with Hartford  
17 Nos. 13677 through 13688. Is that the material  
18 that Mr. Capaldo from Design Partnership sent to  
19 you at your request on July 16th, 2003,  
20 regarding the ledge claim?

21 A. Apparently so.

22 Q. Do you recall receiving it?

23 A. I don't recall receiving it, but I'm  
24 certain this is an accurate record.

1           Q.     Now, the letter from Mr. Capaldo back  
2         to Mr. Votta, is dated in November of 2001 and  
3         makes it pretty clear that the architect does  
4         not agree with any claim for an adjustment in  
5         the unit price, correct?

6           A.     That is the statement in the  
7         architect's letter.

8           Q.     Now, did you have any reason or basis  
9         to disagree with that determination?

10          A.     Oh, I didn't make an assessment of  
11         that determination.

12          Q.     Well, he's the architect, isn't he?

13          A.     I presume so.

14          Q.     I mean, you make reference in your own  
15         notes about asking him for that letter, right?

16          A.     What I was trying to do, if I recall,  
17         was to get a copy of what Mr. Votta was  
18         referencing as an early notification to the  
19         architect. And the architect returned that -  
20         that's the letter of November 1st accompanied by  
21         a reply.

22          Q.     And the reply states pretty clearly  
23         that the architect will not recognize a claim  
24         for adjustment in the unit price, correct?

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CERTIFICATE

2

Commonwealth of Massachusetts

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Middlesex, ss.

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I, K. Henry-Sexton, Registered Professional Reporter and Notary Public, in and for the Commonwealth of Massachusetts, do hereby certify:

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That WILLIAMS JARVIS, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the said witness.

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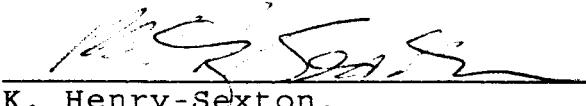
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IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this 7th day of November, 2005.

  
K. Henry-Sexton,  
RPR

My commission expires  
on April 19, 2007